

House File 686 - Reprinted

HOUSE FILE _____
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 201)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the duties and responsibilities of the state
2 board of regents and the institutions under its control.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2364HV 81
5 kh/pj/5

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1 1 Section 1. Section 12B.10C, Code 2005, is amended by
1 2 adding the following new subsection:
1 3 NEW SUBSECTION. 10. The state board of regents governed
1 4 by chapter 262.
1 5 Sec. 2. Section 73A.1, subsection 2, Code 2005, is amended
1 6 to read as follows:
1 7 2. "Municipality" as used in this chapter means township,
1 8 school corporation, and state fair board, ~~and state board of~~
~~1 9 regents.~~
1 10 Sec. 3. Section 262.9, subsection 7, Code 2005, is amended
1 11 to read as follows:
1 12 7. ~~With the approval of the executive council, acquire~~
1 13 Acquire real estate for the proper uses of ~~said~~ institutions
1 14 under its control, and dispose of real estate belonging to
1 15 ~~said the~~ institutions when not necessary for their purposes.
1 16 ~~A~~ The disposal of ~~such~~ real estate shall be made upon such
1 17 terms, conditions, and consideration as the board may
1 18 recommend ~~and subject to the approval of the executive~~
~~1 19 council.~~ If real estate subject to sale ~~hereunder~~ has been
1 20 purchased or acquired from appropriated funds, the proceeds of
1 21 such sale shall be deposited with the treasurer of state and
1 22 credited to the general fund of the state. There is hereby
1 23 appropriated from the general fund of the state a sum equal to
1 24 the proceeds so deposited and credited to the general fund of
1 25 the state to the state board of regents, ~~which, with the prior~~
~~1 26 approval of the executive council,~~ may be used to purchase
1 27 other real estate and buildings, and for the construction and
1 28 alteration of buildings and other capital improvements. All
1 29 transfers shall be by state patent in the manner provided by
1 30 law. The board is also authorized to grant easements for
~~1 31 rights-of-way over, across, and under the surface of public~~
~~1 32 lands under its jurisdiction when in the board's judgment such~~
~~1 33 easements are desirable and will benefit the state of Iowa.~~
1 34 Sec. 4. Section 262.9, subsection 15, unnumbered paragraph
1 35 2, Code 2005, is amended by striking the unnumbered paragraph.
2 1 Sec. 5. Section 262.10, unnumbered paragraph 1, Code 2005,
2 2 is amended to read as follows:
2 3 No sale or purchase of real estate shall be made save upon
2 4 the order of the board, made at a regular meeting, or one
2 5 called for that purpose, and then in such manner and under
2 6 such terms as the board may prescribe ~~and only with the~~
~~2 7 approval of the executive council.~~ No member of the board or
2 8 any of its committees, offices or agencies nor any officer of
2 9 any institution, shall be directly or indirectly interested in
2 10 such purchase or sale.
2 11 Sec. 6. Section 262.33A, Code 2005, is amended to read as
2 12 follows:
2 13 262.33A FIRE AND ENVIRONMENTAL SAFETY == REPORT ==
2 14 EXPENDITURES.
2 15 It is the intent of the general assembly that each
2 16 institution of higher education under the control of the state
2 17 board of regents shall, in consultation with the state fire
2 18 marshal, identify and correct all critical fire and

2 19 environmental safety deficiencies. The state fire marshal
2 20 shall report annually to the joint subcommittee on education
2 21 appropriations. The report shall include, but is not limited
2 22 to, the identified deficiencies in fire and environmental
2 23 safety at the institutions, and plans for correction of the
2 24 deficiencies and for compliance with this section. Commencing
2 25 July 1, 1993, each institution under the control of the state
2 26 board of regents shall expend annually for fire safety and
2 27 deferred maintenance at least the amount budgeted for these
2 28 purposes for the fiscal year beginning July 1, 1992, in
2 29 addition to any moneys appropriated from the general fund for
2 30 these purposes in succeeding years.

2 31 Sec. 7. Section 262.34, Code 2005, is amended to read as
2 32 follows:

2 33 262.34 IMPROVEMENTS == ADVERTISEMENT FOR BIDS ==
2 34 DISCLOSURES == PAYMENTS.

2 35 1. When the estimated cost of construction, repairs, or
3 1 improvement of buildings or grounds under charge of the state
3 2 board of regents exceeds ~~twenty-five~~ one hundred thousand
3 3 dollars, the board shall advertise for bids for the
3 4 contemplated improvement or construction and shall let the
3 5 work to the lowest responsible bidder. However, if in the
3 6 judgment of the board bids received are not acceptable, the
3 7 board may reject all bids and proceed with the construction,
3 8 repair, or improvement by a method as the board may determine.
3 9 All plans and specifications for repairs or construction,
3 10 together with bids on the plans or specifications, shall be
3 11 filed by the board and be open for public inspection. All
3 12 bids submitted under this section shall be accompanied by a
3 13 deposit of money, a certified check, or a credit union
3 14 certified share draft in an amount as the board may prescribe.

3 15 2. A bidder awarded a contract shall disclose the names of
3 16 all subcontractors, who will work on the project being bid,
3 17 within forty-eight hours after the award of the contract. If
3 18 a subcontractor named by a bidder awarded a contract is
3 19 replaced, or if the cost of work to be done by a subcontractor
3 20 is reduced, the bidder shall disclose the name of the new
3 21 subcontractor or the amount of the reduced cost.

3 22 3. Payments made by the board for the construction of
3 23 public improvements shall be made in accordance with the
3 24 provisions of chapter 573 except that:

3 25 a. Payments may be made without retention until ninety=
3 26 five percent of the contract amount has been paid. The
3 27 remaining five percent of the contract amount shall be paid as
3 28 provided in section 573.14, except that:

3 29 (1) At any time after all or any part of the work is
3 30 substantially completed in accordance with paragraph "c", the
3 31 contractor may require the release of all or part of the
3 32 retainage owed. Such request shall be accompanied by a waiver
3 33 of claim rights under the provisions of chapter 573 from any
3 34 person, firm, or corporation who has, under contract with the
3 35 principal contractor or with subcontractors performed labor,
4 1 or furnished materials, service, or transportation in the
4 2 construction of that portion of the work for which release of
4 3 the retainage is requested.

4 4 (2) Upon receipt of the request, the board shall release
4 5 all or part of the unpaid funds. Retainage that is approved
4 6 as payable shall be paid at the time of the next monthly
4 7 payment or within thirty days, whichever is sooner. If
4 8 partial retainage is released pursuant to a contractor's
4 9 request, no retainage shall be subsequently held based on that
4 10 portion of the work. If within thirty days of when payment
4 11 becomes due the board does not release the retainage due,
4 12 interest shall accrue on the retainage amount due as provided
4 13 in section 573.14 until that amount is paid.

4 14 (3) If at the time of the request for the retainage there
4 15 are remaining or incomplete minor items, an amount equal to
4 16 two hundred percent of the value of each remaining or
4 17 incomplete item, as determined by the board's authorized
4 18 contract representative, may be withheld until such item or
4 19 items are completed.

4 20 (4) An itemization of the remaining or incomplete items,
4 21 or the reason that the request for release of the retainage
4 22 was denied, shall be provided to the contractor in writing
4 23 within thirty calendar days of the receipt of the request for
4 24 release of retainage.

4 25 b. For purposes of this section, "authorized contract
4 26 representative" means the architect or engineer who is in
4 27 charge of the project and chosen by the board to represent its
4 28 interests, or if there is no architect or engineer, then such
4 29 other contract representative or officer as designated in the

4 30 contract documents as the party representing the board's
4 31 interest regarding administration and oversight of the
4 32 project.

4 33 c. For purposes of this section, "substantially completed"
4 34 means the first date on which any of the following occurs:

4 35 (1) Completion of the project or when the work has been
5 1 substantially completed in general accordance with the terms
5 2 and provisions of the contract.

5 3 (2) The work or the portion designated is sufficiently
5 4 complete in accordance with the requirements of the contract
5 5 so the board can occupy or utilize the work for its intended
5 6 purpose.

5 7 (3) The project is certified as having been substantially
5 8 completed by either of the following:

5 9 (a) The architect or engineer authorized to make such
5 10 certification.

5 11 (b) The contracting authority representing the board.

5 12 4. Each contractor or subcontractor shall withhold
5 13 retainage, if at all, in the same manner as retainage is
5 14 withheld from the contractor or subcontractor; and each
5 15 subcontractor shall pass through all retainage payments to
5 16 lower tier subcontractors in accordance with the provisions of
5 17 chapter 573.

5 18 Sec. 8. Section 262.57, unnumbered paragraph 1, Code 2005,
5 19 is amended to read as follows:

5 20 To pay all or any part of the cost of carrying out any
5 21 project at any institution the board is authorized to borrow
5 22 money and to issue and sell negotiable bonds or notes and to
5 23 refund and refinance bonds or notes heretofore issued or as
5 24 may be hereafter issued for any project or for refunding
5 25 purposes at a lower rate, the same rate or a higher rate or
5 26 rates of interest and from time to time as often as the board
5 27 shall find it to be advisable and necessary so to do. Such
5 28 bonds or notes may be sold by said board at public sale in the
5 29 manner prescribed by chapter 75 but if the board shall find it
5 30 to be advantageous and in the public interest to do so, such
5 31 bonds or notes may be sold by the board at private sale
5 32 without published notice of any kind and without regard to the
5 33 requirements of chapter 75 in such manner and upon such terms
5 34 as may be prescribed by the resolution authorizing the same—
5 35 ~~but such bonds or notes shall in any event be sold upon terms~~

6 1 ~~of not less than par plus accrued interest.~~ Bonds or notes
6 2 issued to refund other bonds or notes heretofore or hereafter
6 3 issued by the board for residence hall or dormitory purposes
6 4 at any institution, including dining or other facilities and
6 5 additions, or heretofore or hereafter issued for refunding
6 6 purposes, may either be sold in the manner hereinbefore
6 7 specified and the proceeds thereof applied to the payment of
6 8 the obligations being refunded, or the refunding bonds or
6 9 notes may be exchanged for and in payment and discharge of the
6 10 obligations being refunded, and a finding by the board in the
6 11 resolution authorizing the issuance of such refunding bonds or
6 12 notes that the bonds or notes being refunded were issued for a
6 13 purpose specified in this division and constitute binding
6 14 obligations of the board shall be conclusive and may be relied
6 15 upon by any holder of any refunding bond or note issued under
6 16 the provisions of this division. The refunding bonds or notes
6 17 may be sold or exchanged in installments at different times or
6 18 an entire issue or series may be sold or exchanged at one
6 19 time. Any issue or series of refunding bonds or notes may be
6 20 exchanged in part or sold in parts in installments at
6 21 different times or at one time. The refunding bonds or notes
6 22 may be sold or exchanged at any time on, before, or after the
6 23 maturity of any of the outstanding notes, bonds or other
6 24 obligations to be refinanced thereby and may be issued for the
6 25 purpose of refunding a like or greater principal amount of
6 26 bonds or notes, except that the principal amount of the
6 27 refunding bonds or notes may exceed the principal amount of
6 28 the bonds or notes to be refunded to the extent necessary to
6 29 pay any premium due on the call of the bonds or notes to be
6 30 refunded or to fund interest in arrears or about to become
6 31 due.

6 32 Sec. 9. Section 262.78, subsection 6, Code 2005, is
6 33 amended by striking the subsection.

6 34 Sec. 10. Section 262A.5, unnumbered paragraph 1, Code
6 35 2005, is amended to read as follows:

7 1 The board is authorized to borrow money under this chapter,
7 2 and the board may issue and sell negotiable bonds to pay all
7 3 or any part of the cost of carrying out any project at any
7 4 institution and may refund and refinance bonds issued for any
7 5 project or for refunding purposes at the same rate or at a

7 6 higher or lower rate or rates of interest. Bonds issued under
7 7 the provisions of this chapter shall be sold by said board at
7 8 public sale on the basis of sealed proposals received pursuant
7 9 to a notice specifying the time and place of sale and the
7 10 amount of bonds to be sold which shall be published at least
7 11 once not less than seven days prior to the date of sale in a
7 12 newspaper published in the state of Iowa and having a general
7 13 circulation in said state. The provisions of chapter 75 shall
7 14 ~~not~~ apply to bonds issued under authority contained in this
7 15 chapter, ~~but such bonds shall be sold upon terms of not less~~
~~7 16 than par plus accrued interest to the extent not in conflict~~
~~7 17 with this chapter.~~ Bonds issued to refund other bonds issued
7 18 under the provisions of this chapter may either be sold in the
7 19 manner hereinbefore specified and the proceeds thereof applied
7 20 to the payment of the obligations being refunded, or the
7 21 refunding bonds may be exchanged for and in payment and
7 22 discharge of the obligations being refunded. The refunding
7 23 bonds may be sold or exchanged in installments at different
7 24 times or an entire issue or series may be sold or exchanged at
7 25 one time. Any issue or series of refunding bonds may be
7 26 exchanged in part or sold in parts in installments at
7 27 different times or at one time. The refunding bonds may be
7 28 sold or exchanged at any time on, before, or after the
7 29 maturity of any of the outstanding bonds or other obligations
7 30 to be refinanced thereby and may be issued for the purpose of
7 31 refunding a like or greater principal amount of bonds, except
7 32 that the principal amount of the refunding bonds may exceed
7 33 the principal amount of the bonds to be refunded to the extent
7 34 necessary to pay any premium due on the call of the bonds to
7 35 be refunded or to fund interest in arrears or which is to

8 1 become due.
8 2 Sec. 11. Section 266.39F, subsection 2, unnumbered
8 3 paragraph 2, Code 2005, is amended to read as follows:

8 4 The provisions of section 262.9, subsection 7, ~~and section~~
~~8 5 262.10,~~ shall not apply to the sale of any portion of land to
8 6 be sold in accordance with this section or to the use of the
8 7 proceeds from the sale of the land.

8 8 Sec. 12. Section 573.12, subsection 1, unnumbered
8 9 paragraph 1, Code 2005, is amended to read as follows:

8 10 Payments made under contracts for the construction of
8 11 public improvements, unless provided otherwise by law, shall
8 12 be made on the basis of monthly estimates of labor performed
8 13 and material delivered, as determined by the project architect
8 14 or engineer. The public corporation shall retain from each
8 15 monthly payment not more than five percent of that amount
8 16 which is determined to be due according to the estimate of the
8 17 architect or engineer. ~~However, institutions governed~~
~~8 18 pursuant to chapter 262 may, on contracts where a bond is~~
~~8 19 required under section 573.2, make payments under this section~~
~~8 20 without retention until ninety-five percent of the contract~~
~~8 21 amount has been paid and the remaining five percent of the~~
~~8 22 contract amount shall be paid as provided under section~~
~~8 23 573.14.~~

8 24 Sec. 13. Section 573.14, unnumbered paragraph 2, Code
8 25 2005, is amended to read as follows:

8 26 The public corporation shall order payment of any amount
8 27 due the contractor to be made in accordance with the terms of
8 28 the contract. Except as provided in section 573.12 for
8 29 progress payments, failure to make payment pursuant to this
8 30 section, of any amount due the contractor, within forty days,
8 31 unless a greater time period not to exceed fifty days is
8 32 specified in the contract documents, after the work under the
8 33 contract has been completed and if the work has been accepted
8 34 and all required materials, certifications, and other
8 35 documentations required to be submitted by the contractor and
9 1 specified by the contract have been furnished the awarding
9 2 public corporation by the contractor, shall cause interest to
9 3 accrue on the amount unpaid to the benefit of the unpaid
9 4 party. Interest shall accrue during the period commencing the
9 5 thirty-first day following the completion of work and
9 6 satisfaction of the other requirements of this paragraph and
9 7 ending on the date of payment. The rate of interest shall be
9 8 determined by the period of time during which interest
9 9 accrues, and shall be the same as the rate of interest that is
9 10 in effect under section 12C.6, as of the day interest begins
9 11 to accrue, for a deposit of public funds for a comparable
9 12 period of time. However, for institutions governed pursuant
9 13 to chapter 262, the rate of interest shall be determined by
9 14 the period of time during which interest accrues, and shall be
9 15 calculated as the prime rate plus one percent per year as of
9 16 the day interest begins to accrue. This paragraph does not

9 17 abridge any of the rights set forth in section 573.16. Except
9 18 as provided in sections 573.12 and 573.16, interest shall not
9 19 accrue on funds retained by the public corporation to satisfy
9 20 the provisions of this section regarding claims on file. This
9 21 chapter does not apply if the public corporation has entered
9 22 into a contract with the federal government or accepted a
9 23 federal grant which is governed by federal law or rules that
9 24 are contrary to the provisions of this chapter. For purposes
9 25 of this unnumbered paragraph, "prime rate" means the prime
9 26 rate charged by banks on short-term business loans, as
9 27 determined by the board of governors of the federal reserve
9 28 system and published in the federal reserve bulletin.
9 29 Sec. 14. Sections 262.64A, 262.67, 262A.3, 262A.6A,
9 30 263A.11, 265.6, and 473.12, Code 2005, are repealed.
9 31 HF 686
9 32 kh:nh/es/25